

Before the  
Federal Communications Commission  
Washington, D.C. 20554

MM Docket No. 92-32

In the Matter of

Amendment of Section 73.202(b), RM-7907  
Table of Allotments,  
FM Broadcast Stations.  
(Blacksburg and Roanoke, Virginia)  
and Lewisburg, West Virginia)

**NOTICE OF PROPOSED RULE MAKING  
AND ORDER TO SHOW CAUSE**

Adopted: February 24, 1992; Released: March 4, 1992

Comment Date: April 27, 1992

Reply Comment Date: May 12, 1992

By the Assistant Chief, Allocations Branch:

1. The Commission has before it the petition for rule making filed by Blacksburg-Christiansburg Company ("petitioner"), licensee of Station WVVVFM, Channel 285A, Blacksburg, Virginia, requesting the substitution of Channel 287C3 for Channel 285A at Blacksburg and modification of its license to specify operation on the higher powered channel. To accommodate the allotment of Channel 287C3 at Blacksburg, petitioner also requests the substitution of Channel 275A for Channel 288A at Lewisburg, West Virginia, and the modification of Station WKCJ-FM's license accordingly; and the substitution of Channel 285C3 for Channel 287A at Roanoke, Virginia. Petitioner states that it will apply for Channel 287C3 and will also reimburse the licensee of Station WKCJ(FM) for the reasonable costs associated with the change in channel at Lewisburg, West Virginia. Susan D. Brown ("Brown"), permittee of Channel 287A at Roanoke, Virginia, filed comments.<sup>1</sup>

2. We believe the public interest would be served by proposing the substitution of Channel 287C3 for Channel 285A at Blacksburg; the substitution of Channel 275A for Channel 288A at Lewisburg, and the substitution of Channel 285C3 for Channel 287A at Roanoke, since the proposal could provide both the communities of Blacksburg and Roanoke with wide coverage area FM services. Chan-

nel 287C3 can be allotted to Blacksburg, Virginia, and Channel 285C3 can be allotted can be allotted to Roanoke, Virginia, in compliance with the Commission's minimum distance separation requirements. Channel 287C3 can be allotted to Blacksburg with a site restriction of 6.2 kilometers (3.9 miles) northwest to accommodate petitioner's desired site.<sup>2</sup> Channel 285C3 at Roanoke will require a site restriction of 8.4 kilometers (5.2 miles) northeast to avoid a short-spacing to Station WDCG-FM, Channel 286C, Durham, North Carolina.<sup>3</sup> As proposed, Channel 275A can be allotted to Lewisburg, West Virginia, in compliance with the Commission's minimum distance separation requirements and can be used at the transmitter site specified in Station WKCJFM's license.<sup>4</sup> Therefore, we will direct an *Order to Show Cause* to the licensee of Station WKCJ-FM why its license should not be modified to specify operation on Channel 275A in lieu of Channel 288A. Petitioner will be required to reimburse the licensee of Station WKCJ-FM for the reasonable costs of moving to Channel 275A if this proposal is ultimately adopted.

3. As requested, we shall propose to modify the license of Station WVVV-FM at Blacksburg, Virginia, and Brown's authorization for Channel 287A at Roanoke to specify operation on Channel 287C3 and Channel 285C3, respectively. In accordance with Section 1.420(g) of the Commission's Rules we will not accept competing expressions of interest or require that the petitioner or Brown demonstrate the availability of an additional equivalent channel at Blacksburg, Virginia, or at Roanoke, Virginia.

4. Accordingly, we seek comments on the proposed amendment of the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, for the community listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Blacksburg, Virginia	285A	287C3
Roanoke, Virginia	222C, 235C, 256C, 287A	222C, 235C, 256C, 285C3
Lewisburg, West Virginia	288A	275A

5. Accordingly, IT IS ORDERED. That pursuant to Section 316(a) of the Communications Act of 1934, as amended, Seneca Broadcasting, Inc., licensee of Station WKCJ-FM, Lewisburg, West Virginia, SHALL SHOW CAUSE why its license SHOULD NOT BE MODIFIED to specify operation on Channel 275A as proposed herein instead of the present Channel 288A.

6. Pursuant to Section 1.87 of the Commission's Rules, Seneca Broadcasting, Inc., may, not later than April 27, 1992, file a written statement showing with particularity why its license should not be modified as proposed in the

<sup>1</sup> Susan D. Brown's application for Channel 287A at Roanoke, Virginia, was granted on July 12, 1991 and affirmed by the Review Board on November 27, 1991. See 6 FCC Rcd 7210 (1991). Brown filed comments supporting petitioner's proposal, particularly that part of the petition proposing to upgrade the facilities at Roanoke. Brown states that she will apply for Channel 285C3, if allotted.

<sup>2</sup> The coordinates for Channel 287C3 at Blacksburg, Virginia, are North Latitude 37-16-14 and West Longitude 80-27-39.

<sup>3</sup> The coordinates for Channel 285C3 at Roanoke, Virginia, are North Latitude 37-20-33 and West Longitude 79-53-50.

<sup>4</sup> The coordinates for Channel 275A at Lewisburg, West Virginia, are North Latitude 37-48-17 and West Longitude 80-21-03. Since Lewisburg is located within the protected areas of the National Radio Astronomy Observatory "Quiet Zone" at Green Bank, West Virginia, the licensee of Station WKCJ-FM will be required to comply with the notification requirement of Section 73.1030(a) of the Commission's Rules.

*Order to Show Cause.* The Commission may call on Seneca Broadcasting, Inc., to furnish additional information. If Seneca Broadcasting, Inc. raises a substantial and material question of fact, a hearing may be required to resolve such a question pursuant to Section 1.87. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification, or set the matter of modification for hearing. If no written statement is filed by the date referred to above, Seneca Broadcasting, Inc., will be deemed to have consented to the modification as proposed in the *Order to Show Cause* and a final *Order* will be issued by the Commission, if the above-mentioned channel modification is ultimately found to be in the public interest.

7. IT IS FURTHER ORDERED, That the Secretary SHALL SEND, BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, a copy of this *Notice of Proposed Rule Making and Order to Show Cause* to Seneca Broadcasting, Inc., P.O. Box 610, White Sulphur Spring, West Virginia, 24986 (licensee of Station WKCJ-FM).

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

9. Interested parties may file comments on or before April 27, 1992, and reply comments on or before May 12, 1992, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

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(Counsel for petitioner)

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Washington, D.C. 20036  
(Counsel for Susan Brown)

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

11. For further information concerning this proceeding, contact Pamela Blumenthal, Mass Media Bureau, (202) 634-6530. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

#### FEDERAL COMMUNICATIONS COMMISSION

Michael C. Ruger  
Assistant Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

#### APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(h) of the Communications Act of 1934, as amended, and Sections 0.61 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments. Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut - off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street N.W., Washington, D.C.